



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/693,709	10/20/2000	Oscar E. Agazzi	36980/NJP/B600	7399

7590 10/09/2003

CHRISTOPHER C. WINSLADE  
MCANDREWS, HELD & MALLOY  
500 W. MADISON STREET  
SUITE 3400  
CHICAGO, IL 60661

EXAMINER
----------

GHEBRETINSAE, TEMESGHEN

ART UNIT	PAPER NUMBER
----------	--------------

2631

DATE MAILED: 10/09/2003

//

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/693,709

**Applicant(s)**

AGAZZI, OSCAR E.

**Examiner**

Temesghen Ghebretinsae

**Art Unit**

2631

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 40-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 40-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3,7,8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Art Unit: 2631

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1,3-8,40,42-46 are rejected under 35 U.S.C. 102(e) as being anticipated by Spickermann et al. (6,362,903).

Spickermann discloses an apparatus for transmitting a data on a fiber channel comprising: an input that receives digital data (11-1,11-n); a plurality of programmable modulators (13-14); a plurality of mixers (15-1-15-n) coupled to the output of one of the programmable modulators; a plurality of band pass filters are inherent (see receiver having plurality of band pass filters 25-1-26); and a summation unit that combines the outputs (see fig.2). Each programmable modulator comprises a control input the controls the type of modulation and the type of modulation selected consists PSK, QAM etc.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2631

4. Claims 2,9,41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spickermann et al.

Spickermann discloses the subject matter of the invention substantially as claimed. Spickermann differs from the present invention in that he is silent about the input signal being received by GMII and the integrated circuit being CMOS. However, such are well known in the art of communication.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1,4,5,8,40,43,44 are rejected under 35 U.S.C. 102(b) as being anticipated by Cameron et al (EP 0789464A2).

Cameron et al discloses an apparatus for transmitting a data comprising: an input that receives digital data (1304); a plurality of programmable modulators including a plurality of mixers and plurality of band pass filters (1306-1314); and a summation unit (1316) that combines the outputs (see fig.13). Each programmable modulator comprises a control input that controls the type of modulation and the type of modulation selected consists PSK, QAM etc.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1,8,40 are rejected under 35 U.S.C. 102(b) as being anticipated by Schilling (6,243,370).

Schilling discloses an apparatus for transmitting a data comprising: an input that receives digital data; a plurality of programmable modulators (151); a plurality of

mixers (153) and plurality of band pass filters (155); and a summation unit (157) that combines the outputs (see figs 1,2A)

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chethik (5,867,071) is cited to show QAM transmitter having a plurality of modulators and a combiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Temesghen Ghebretinsae whose telephone number is 703-305-4777. The examiner can normally be reached on Monday-Friday from 8 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham, can be reached on (703) 305-4378. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-9000.

Temesghen Ghebretinsae  
Primary Examiner  
Art Unit 2631

TEMESGHEN GHEBRETINSAE  
PRIMARY EXAMINER

